

BAKER & BOTTS, L.L.P.
30 ROCKEFELLER PLAZA
NEW YORK, NEW YORK 10112-0228

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PATENT

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UTILITY PATENT
APPLICATION
TRANSMITTAL

(Only for new nonprovisional
applications under 37 CFR 1.53(b))

Attorney Docket No. A32636-072708.0116

First Named Inventor WAYNE COHEN

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Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

Sir:

Enclosed herewith for filing is a patent application of WAYNE COHEN entitled MARACA WITH FLEXIBLE HANDLE

which includes:

☒ Specification 6 Total Pages
☐ Claims 3 Total Pages
☐ Abstract 1 Total Pages
☐ Drawing(s) 3 Total Sheets
 formal
 ☒ informal

☒ Combined Declaration and Power of Attorney 3 Total Pages
 ☐ Newly executed (original or copy)
 ☐ Copy from a prior application
 (for continuation/divisional only - must be filed to avoid surcharge for late filing)

If a continuing application, check appropriate box:

☐ Continuation ☐ Divisional ☐ Continuation-In-Part (CIP)
of prior application No.

☐ Amend the specification by inserting, before the first line, the following sentence:

"This is a ☐ continuation ☐ divisional ☐ continuation-in-part
of copending application Serial No. filed ."

Attorney Docket No. A32636-072708.0116

- ☐ An Assignment of the invention to ____.
- ☐ is attached. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
- ☐ will follow.
- ☐ has been filed in the prior application

☒ Small Entity Statement(s)

- ☐ Small Entity Statement filed in prior application. Status still proper and desired.

☐ Information Disclosure Statement (IDS) PTO-1449

- ☐ Copies of IDS Citations.

☐ Preliminary Amendment

☒ Return Receipt Postcard

☐ Other ____

- ☐ Cancel in this application original claims ____ of the prior application before calculating the filing fee.

The filing fee has been calculated as shown below:

FOR	(Col. 1) <u>No. Filed</u>	(Col. 2) <u>No. Extra</u>	Small Entity <u>Rate</u>	<u>Fee</u>	OR	Other Than A Small Entity <u>Rate</u>	<u>Fee</u>
Basic Fee	380			\$380			
Total Claims	12	-20 = 0	x \$9 =	\$0		x \$18 =	\$0
Ind. Claims	1	-3 = 0	x \$39 =	\$0		x \$78 =	\$0
Multiple Dependent Claim			+ \$130 =	\$0		+\$260 =	\$0
			Total	<u>\$380</u>			_____

* If the difference in Col. 1 is less than zero, enter "0" in Col. 2.

Fee Payment Being Made:

☒ Enclosed

☒ Basic filing fee \$380.00

☐ Recording Assignment
[\$40.00; 37 CFR 1.21(h)]

Total Fees Enclosed \$380.00

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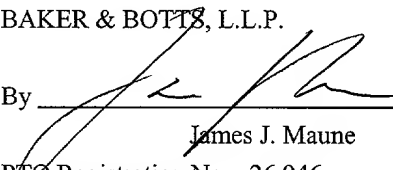
Attorney Docket No. A32636-072708.0116

Priority

- ☐ Priority of application Country __, Appln. No. __ filed __ is claimed under 35 U.S.C. 119.
- ☐ Certified Copy of Priority Document(s) Country __, Appln No. __, filed __.
- ☐ is/are attached ☐ will follow ☐ has been filed in the parent application S/N __.
- ☒ The Commissioner is hereby authorized to charge payment of any additional filing fees required under 37 CFR 1.16, 1.17, and 1.21(h) associated with this communication or credit any overpayment to Deposit Account No. 02-4377. Two copies of this sheet are enclosed.

BAKER & BOTTS, L.L.P.

By


James J. Maune

PTO Registration No. 26,946

Enclosures

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Attorney Docket No. A32636-072708.0116
Baker & Botts, L.L.P.Applicant or Patentee: WAYNE COHENSerial or Patent No.: NOT YET ASSIGNED Filed or Issued: NOTE YET ASSIGNEDFor: MARACA WITH FLEXIBLE HANDLE**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(b)) - INDEPENDENT INVENTOR**

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, to the Patent and Trademark Office with regard to the invention entitled MARACA WITH FLEXIBLE HANDLE described in

- ☒ the specification filed herewith
☐ Application Serial No. __, filed __.
☐ Patent No. __, issued __.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below.

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*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

NAME _____

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acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of

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Baker & Borts, L.L.P.

Attorney's Docket No. A32636-072708.0116

entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Wayne Cohen

NAME OF INVENTOR

Signature of Inventor

Date

NAME OF INVENTOR

Signature of Inventor

Date

NAME OF INVENTOR

Signature of Inventor

Date

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** TOTAL PAGE.36 **

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TO ALL WHOM IT MAY CONCERN:

Be it known that I, Wayne Cohen, a citizen of the United States, residing in Bangkok, Country of Thailand, whose post office address is 44 Convent Road, Silom, Bangrak, Bangkok, 10500, Thailand have invented an improvement in a

MARACA WITH FLEXIBLE HANDLE

of which the following is a

SPECIFICATION

FIELD OF THE INVENTION

The present invention relates to the field of musical instruments and more specifically to the noise making type of instrument known as a maraca or musical shaker. The present invention additionally relates to the field of novelty items.

BACKGROUND OF THE INVENTION

Maracas and musical shakers are often used in the rhythm sections of orchestras and other musical groups to establish rhythm in musical performances of all kinds. The maraca generally comprises a spherically shaped dried and hollowed gourd containing dried seeds or other pellets that produces a "rattle" sound when it is shaken. The entire maraca is normally very

rigid and its movement corresponds to movement of the player's hands. Such maracas are described in U.S. Patent Nos. 5,808,215 and 2,318,460.

Novelty items are often fashioned from miniaturized versions of items with other uses. A major hurdle in developing such novelty items, for example, key chain attachments lies in rendering the items sturdy and flexible enough to be placed in pockets and handbags without breaking. Another consideration in the field of novelty items is safety for children who are often permitted to play with key chain attachments. Due to these considerations, a maraca key chain attachment or toy fashioned in a manner usual for maracas is fragile and potentially hazardous. The rigid handle can easily snap or break away from the shell portion of the item when placed in pockets or handbags or during the play of children.

Accordingly, it is the primary object of the present invention to provide a maraca that is resistant to breakage.

Another object of the invention is to provide a professional maraca with a springy handle that enhances the movement of the shell portion during play.

SUMMARY OF THE INVENTION

In accordance with the present invention there is provided an improvement in a shaker instrument having a first hollow shell part with pellets enclosed therein joined to a second handle part. The improvement is fabricating the second handle part of flexible material permitting resilient bending of the handle.

In one embodiment the shell part comprises a molded shell having a truncated end portion and a bottleneck extending from the truncated end. A cap may be provided to close the bottleneck. The bottleneck may be received into a recess formed in a mating end of the handle part. In the absence of a cap to close the bottleneck, the handle part may serve this function. The handle part may additionally be provided with a bore through the end of the handle distal to the joint with the shell. The handle part may be fabricated in whole or in part of rubber or flexible plastic material, such as polyvinyl chloride or Santoprene®. The shell part may be fabricated of rigid plastic. The exterior surface of the shaker instrument may form a maraca having a bulbous end, comprised of the shell part and a portion of the handle part.

BRIEF DESCRIPTION OF THE DRAWING

FIG. 1 shows an exploded and partially sectioned side view of a first embodiment of the shaker instrument in accordance with the invention.

FIG. 2 shows an exploded partially sectioned side view of a second embodiment of the shaker instrument in accordance with the invention.

FIG. 3 is a plan view of a third embodiment of the shaker instrument in accordance with the invention.

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DESCRIPTION OF THE PREFERRED EMBODIMENT

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Referring to Figure 1, there is shown a first embodiment of the invention in the form of a small maraca 10 for use as a key chain attachment. The entire maraca 10 may be as small as about 8.5 cm in overall length. Alternatively, the maraca 10 may be a smaller or larger novelty item or a full size maraca. Maraca 10 is formed of two principal parts, a first shell part 20 and a second handle part 24. Shell part 20 has a hollow interior and includes sounding pellets 22 therein. Shell part 20 is preferably blow-molded or injection molded of relatively rigid plastic, such as styrene, high impact styrene, polycarbonate, ABS or PE and includes a truncated end portion having a bottleneck extension 26. Use of a rigid plastic enhances the sound.

15

Handle part 24 is fabricated of more flexible plastic material such as rubber, PVC or Santoprene®. According to the size, material and molding technique, handle 24 may be solid or have a hollow or partially hollow interior. In a preferred embodiment handle 24 includes a recess 30 at one end which is shaped to closely receive the bottleneck extension 26 of shell part 20. A cap 28 may be optionally provided to close the opening of bottleneck extension 26 prior to assembly of shell 20 to handle 24, for example, using adhesive. The material and diameter of

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handle 24 are selected to provide a selected amount of flexure of handle 24, for example when it is forced into a pocket or purse. Handle 24 may bend up to about 15 degrees or more from straight, thereby relieving strain that might otherwise overcome the adhesive bond between handle part 24 and shell part 20.

5 A cap member 28 may be optionally provided to close bottleneck extension 26 prior to joining shell 20 to handle 24. Cap member 28 may form a snap-fit to the bottleneck extension or alternatively/or in addition may be adhesively joined or welded thereto.

In the embodiment shown, handle 24 is provided with an optional bore 32 through the end thereof distal to the shell 20 for attachment to a key chain, etc.

10 Figure 2 illustrates an exploded side view of a second embodiment of the invention 40. The musical shaker 40 comprises an egg shaped shell 42 comprised of two components 44 and 46 sealed with adhesive at central joint 48 to enclose pellets 50 with a handle 52 attached. Handle 52 may further comprise a recess 56 conforming to one end of shell 42 for adhesive bonding thereto. A bore 54 may also be provided at the distal end of handle 52.

15 The pieces 44 and 46 of the egg shaped shell 42 are preferably formed of a rigid plastic material such as styrene although it is within the scope of this invention to utilize other hard materials, as indicated above. Handle 52 is preferably formed from a flexible plastic material such as rubber, polyvinyl chloride or Santoprene®, though it is within the scope of the invention to utilize other flexible materials. This embodiment, while an improvement over
20 musical shakers comprising hard plastic handles, is not preferable to the first embodiment as the

shell 42 is not as resistant to breakage as the shell 20 of the first embodiment and because the handle 52, is not as strongly affixed to the shell 40 as the handle 24 is affixed to shell 20 and is therefore more likely to separate from the shell 40.

A third embodiment of a maraca 60 is shown in Figure 3. Maraca 60 has a shell 62, preferably of rigid material, as in the first and second embodiments. The handle member 64 of maraca 60 is formed of two handle portions 66, 68. Handle portion 66, which adjoins shell 62 is formed of resilient material, such as rubber or flexible plastic allowing handle 64 to bend in this region. Handle portion 68 may be fabricated of more rigid material.

While the above description constitutes the preferred embodiments of the present invention, it will be appreciated that the invention is susceptible to modification, variation and change without departing from the proper scope and the fair meaning of the accompanying claims. For example, the shape of the shaker may be varied from that depicted in the drawings and continue to benefit from a flexible plastic handle.

I CLAIM:

1 1. In a shaker instrument having a first part comprising a hollow shell with pellets therein
 2 joined to a second part comprising an elongated handle, the improvement wherein said handle is
 3 fabricated of flexible material permitting resilient bending of said handle.

1 2. A shaker shaped instrument as specified in claim 1, wherein the said first shell part
 2 comprises a molded shell having a truncated end portion and a bottleneck extending from said
 3 end portion.

1 3. A shaker instrument as specified in claim 2, wherein the first said shell part is
 2 provided with a cap member closing said bottleneck and retaining said pellets in said first part.

1 4. A shaker instrument as specified in claim 2, wherein said second flexible handle part
 2 is provided with a recess for receiving said bottleneck of said first part.

1 5. A shaker instrument as specified in claim 1, wherein said recess forms a closure for
 2 said bottleneck of said first shell part and retaining said pellets in said first part.

1 6. A shaker instrument as specified in claim 1, wherein said second handle part is

1 additionally provided with a bore through the end of said second handle part distal to the joint
2 with said first part.

1 7. A shaker instrument as specified in claim 1, wherein said second flexible handle
2 comprises flexible plastic selected from the group comprising polyvinyl chloride and
3 Santoprene®.

1 8. A shaker instrument as specified in claim 1, wherein said exterior surface forms a
2 maraca having a bulbous end, and wherein said bulbous end comprises said first shell part and a
3 portion of said second handle part.

1 9. A shaker instrument as specified in claim 1, wherein the said first shell part is
2 fabricated of rigid plastic.

1 10. A shaker instrument as specified in claim 1, wherein the entire handle part is
2 fabricated of said flexible material.

1 11. A shaker instrument as specified in claim 1 wherein said handle part comprises a first
2 portion fabricated of said flexible material and a second portion, said first portion adjoining said
3 shell.

- 1 12. A shaker instrument as specified in claim 1 wherein said flexible material is rubber.

12. A shaker instrument as specified in claim 1 wherein said flexible material is rubber.

ABSTRACT OF THE DISCLOSURE

5 A musical shaker is formed with a rigid shell and pellets enclosed therein attached to a flexible handle. In a first embodiment, the shell part truncates to a small end portion and includes a bottleneck opening in the truncated small end portion. The truncated end portion is closed by an internal joint with a cap member covered by the flexible plastic handle or by the flexible handle itself. In a second embodiment, the shell part is formed by two rigid plastic halves sealed so as to enclose the pellets. The end of the flexible handle is fitted to one end of the shell part and is secured to that end by adhesive. In a third embodiment the flexible handle includes two portions, including a flexible handle portion adjoining said shell.

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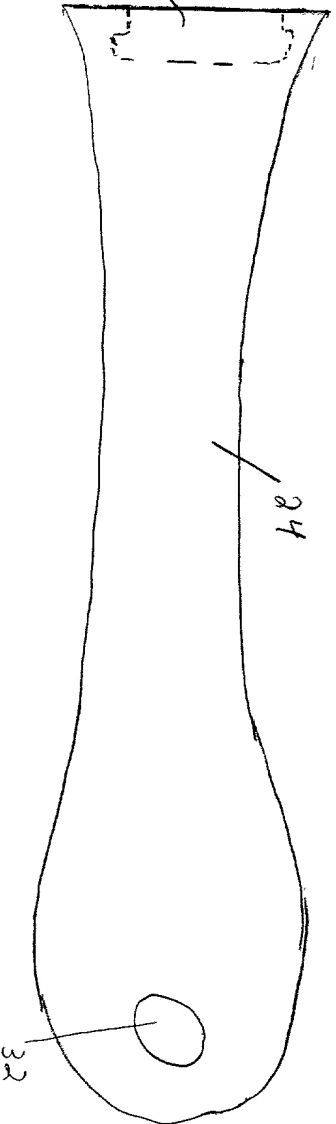
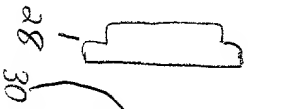
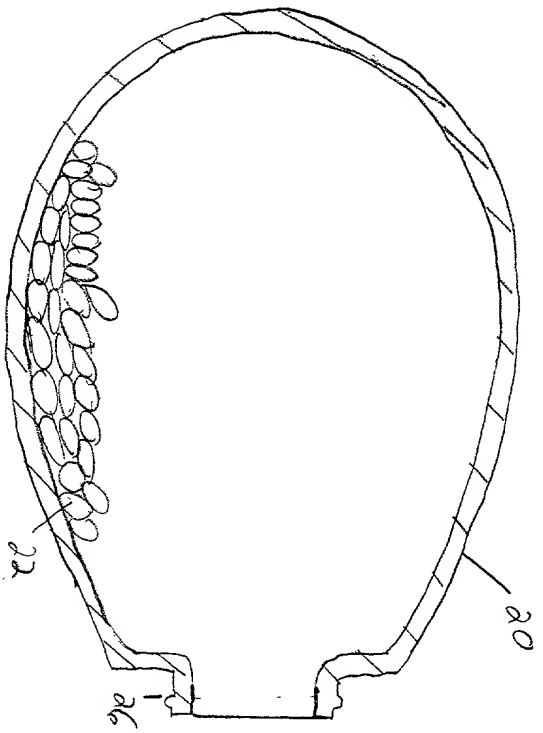


Fig. 1

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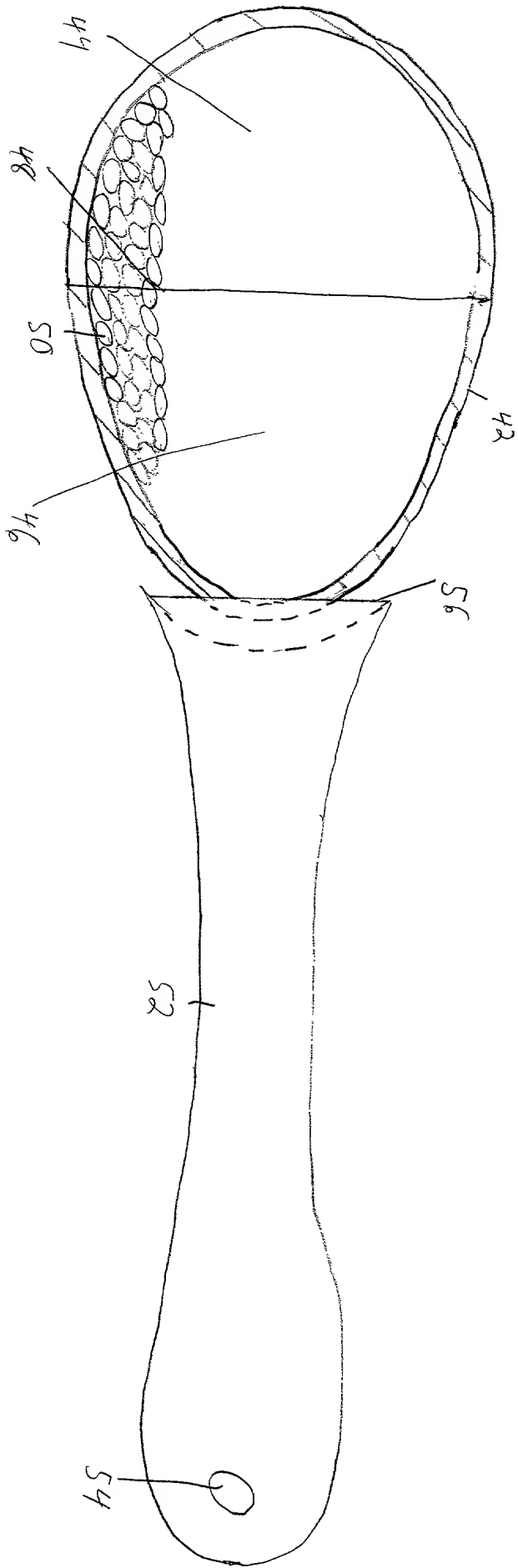


Fig. 2

FIG. 2 is a perspective view of the racket head and handle assembly of the present invention, showing the racket head (40) and handle (52) in a perspective view.

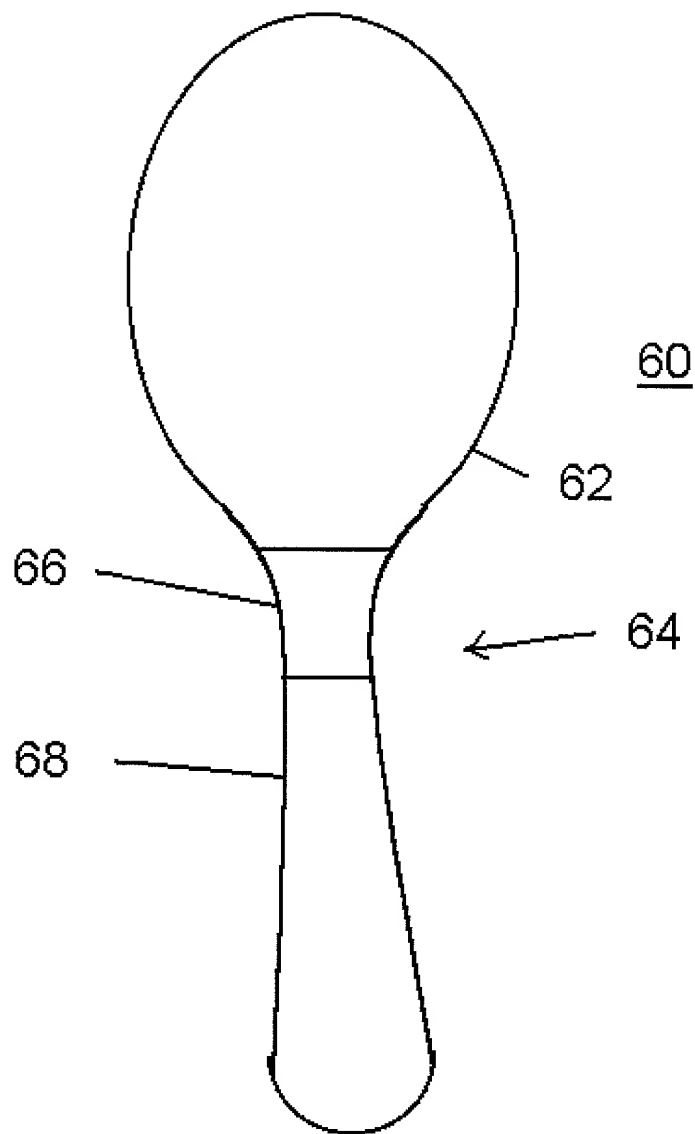


Fig. 3

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FILE NO.: A32636-072708.0116

COMBINED DECLARATION AND POWER OF ATTORNEY

(Original, Design, National Stage of PCT, Divisional, Continuation or C-I-P Application)

As a below named inventor, I hereby declare that: I, WAYNE COHEN
My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

MARACA WITH FLEXIBLE HANDLE

This declaration is of the following type:

- ☒ original
☐ design
☐ national stage of PCT.
☐ divisional
☐ continuation
☐ continuation-in-part (C-I-P)

the specification of which: *(complete (a), (b), or (c))*

- (a) ☒ is attached hereto.
 (b) ☐ was filed on as Application Serial No. and was amended on *(if applicable)*.
 (c) ☐ was described and claimed in PCT International Application No. filed on and was amended on *(if applicable)*.

Acknowledgement of Review of Papers and Duty of Candor

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of the subject matter claimed in this application in accordance with Title 37, Code of Federal Regulations § 1.56.

☐ In compliance with this duty there is attached an information disclosure statement. 37 CFR 1.98.

Priority Claim

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or of any PCT International Application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT International Application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application on which priority is claimed

(complete (d) or (e))

- (d) ☒ no such applications have been filed.
 (e) ☐ such applications have been filed as follows:

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PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
COUNTRY	APPLICATION NO.	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)
None			
ALL FOREIGN APPLICATION(S), IF ANY, FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO SAID APPLICATION			
None			

Claim for Benefit of Prior U.S. Provisional Application(s)

I hereby claim the benefit under Title 35, United States Code, § 119(c) of any United States provisional application(s) listed below:

Provisional Application Number	Filing Date

Claim for Benefit of Earlier U.S./PCT Application(s) under 35 U.S.C. 120

(complete this part only if this is a divisional, continuation or C-I-P application)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

(Application Serial No.)	(Filing Date)	(Status) (patented, pending, abandoned)

Power of Attorney

As a named inventor, I hereby appoint Dana M. Raymond, Reg. No. 18,540; Frederick C. Carver, Reg. No. 17,021; Francis J. Hone, Reg. No. 18,662; Joseph D. Garon, Reg. No. 20,420; Arthur S. Tenser, Reg. No. 18,839; Ronald B. Hildreth, Reg. No. 19,498; Thomas R. Nesbitt, Jr., Reg. No. 22,075; Robert Neuner, Reg. No. 24,316; Richard G. Berkley, Reg. No. 25,465; Richard S. Clark, Reg. No. 26,154; Bradley B. Geist, Reg. No. 27,551; James J. Maunc, Reg. No. 26,946; John D. Murnane, Reg. No. 29,836; Henry Tang, Reg. No. 29,705; Robert C. Scheinfeld, Reg. No. 31,300; John A. Fogarty, Jr., Reg. No. 22,348; Louis S. Sorell, Reg. No. 32,439; Rochelle K. Seide, Reg. No. 32,300; Gary M. Butter, Reg. No. 33,841; Martha E. DeSignore, Reg. No. 32,689; and Lisa B. Kole, Reg. No. 35,225 of the firm of BAKER & BOTTS, L.L.P., with offices at 30 Rockefeller Plaza, New York, New York 10112, as attorneys to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith

SEND CORRESPONDENCE TO: BAKER & BOTTS, L.L.P. 30 ROCKEFELLER PLAZA, NEW YORK, N.Y. 10112 CUSTOMER NUMBER: 21003	DIRECT TELEPHONE CALLS TO: BAKER & BOTTS, L.L.P. (212) 705-5000
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge

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FILE NO.: A32636-072708.0116

that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR	LAST NAME COHEN	FIRST NAME WAYNE	MIDDLE NAME	
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DATE 3 Sept. 99	SIGNATURE OF INVENTOR			
FULL NAME OF SECOND JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
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POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF THIRD JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FOURTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
RESIDENCE & CITIZENSHIP	CITY	STATE or FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			
FULL NAME OF FIFTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
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DATE	SIGNATURE OF INVENTOR			
FULL NAME OF SIXTH JOINT INVENTOR, IF ANY	LAST NAME	FIRST NAME	MIDDLE NAME	
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POST OFFICE ADDRESS	POST OFFICE ADDRESS	CITY	STATE or COUNTRY	ZIP CODE
DATE	SIGNATURE OF INVENTOR			

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